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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,619	10/31/2003	N. Ryan Moss	3052-5698US	9957
24247	7590	09/29/2005	EXAMINER	
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			THOMPSON, HUGH B	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/699,619

Applicant(s)

MOSS ET AL.

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 22-41 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 and 21 is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-15 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5-9-05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Applicant's arguments, in the Appeal Brief of 7-20-05 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Walker and Pantazos.

#### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention: Group I drawn to a pivoting catch member and Group II drawn to a vertically adjustable pin.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Mr. Bradley Jensen on September 27, 2005 a provisional election was made with oral traverse to prosecute the invention of Group I, claims 1-21. Affirmation of this election must be made by applicant in replying to this Office action. Claims 22-41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Pantazos #3,145,668. Pantazos discloses a platform assembly 20 comprised of first assembly 22 with longitudinally extending members 41, 43 and pivoting catch member 44 engageable with stop member 48, and a second assembly 40 that is slidably coupled to the first assembly.

Claims 1-4, 13, 14, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker #1,359,452. Walker discloses a scaffold assembly 1 having a sliding platform assembly 3 with longitudinally extending first and second portions having rectangular parallel members that are slidably interwoven, as best seen in Figure 2, each portion further having attached thereon pivoting catch assembly 22 (cleat/stop member), 23 (pivot pin), 24 (pivoting catch member), the platform assembly having a similar work/opposed surface.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker as advanced above in view of Patterson #3,790,417, as advanced in the Office Action of 1-31-05. Walker fails to disclose different fabrication materials of the extending members. Patterson teaches the utility of extending members formed of composite materials including fiberglass and thermosetting resin, commonly used to produce a high strength, rust resistant, low weight product. Therefore, to one of ordinary skill in the art, it would have been obvious to

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provide the assembly of Walker with composite materials as taught by Patterson, so as to produce a high strength, rust resistant, low weight product. It would have been further obvious to form an I-shaped member, the geometry thereof being no more than an obvious design choice, not expected to produce any new and unexpected results.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker as advanced above in view of Taylor #3,765,509, as advanced in the Office Action of 1-31-05.

*Allowable Subject Matter*

Claims 20 and 21 are allowed.

Claims 5-8 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter of claim 5 is the inclusion of the catch member having a bell-shaped geometry. For claim 16, it is the inclusion of a third section disposed between the first and second sections, the third section having a lesser width than the first two. For claim 20, it is the inclusion of the method step requiring displacement of the first portion in a first direction until the catch is positioned beyond the first support and then displacing the first portion in a second direction until the catch engages a portion of the first support and rotating the catch so as to abut the stop member and prevent further displacement of the first portion in the second direction. The prior art of record fails to teach or suggest the claimed features absent the applicants' own disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

September 26, 2005